

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

PAUL BUSCH, )  
                  )  
Plaintiff,      ) Civil No. 8:05CV00189  
                  )  
v.                )  
                  ) ORDER  
JO ANNE B. BARNHART, )  
Commissioner of Social Security, )  
                  )  
Defendant.       )

This matter is before the Court on the Defendant's Motion to Remand (Filing # 10) pursuant to sentence six of 42 U.S.C. § 405(g) prior to answering Plaintiff's Complaint. The Court has also considered the Plaintiff's response (Filing No. 11), and the motion is unopposed.

The Commissioner requests a remand pursuant to "sentence six" of 42 U.S.C. § 405(g), which provides: "The court may, on motion of the Commissioner of the Social Security made for good cause shown before the Commissioner files the Commissioner's answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security."

In a "sentence six" remand, the Court does not pass on the merits of the Commissioner's decision and does not issue a judgment affirming, reversing, or modifying the Commissioner's decision. The Court retains jurisdiction over the action during the pendency of the additional administrative proceedings. *Raitport v. Callahan*, 183 F.3d 101, 104 (2d Cir. 1999). Moreover, under "sentence six," the parties must return to the district Court at the conclusion of the administrative proceedings to obtain a final judgment.

The Court finds that good cause has been shown for the requested remand pursuant to "sentence six." The Appeals Council is ordered to direct the Administrative Law Judge to: 1) Obtain medical expert testimony; 2) Provide a complete credibility analysis; 3) Reevaluate Plaintiff's condition as of the date last insured of December 31, 1999; 4) If necessary, redetermine Plaintiff's residual functional capacity; 5) Evaluate and determine Plaintiff's ability to perform his past work; and 6) If necessary, obtain vocational expert testimony to determine whether Plaintiff can perform other work.

IT IS ORDERED:

1. The Defendant's Motion to Remand (Filing No. 10) is granted;
2. This action is remanded to the Commissioner pursuant to sentence six of 42 U.S.C. § 405(g) for further administrative proceedings as described above;
3. The Court does not affirm, reverse, or modify the Commissioner's decision and retains jurisdiction of this action during the administrative proceedings;
4. The administrative proceedings on remand shall be completed by no later than one hundred and twenty (120) days from the date of this Memorandum and Order; and
5. The Commissioner shall file monthly status reports with the Clerk of Court at the expiration of thirty (30), sixty (60) and ninety (90) days from the date of this Memorandum and Order.

Dated this 9<sup>th</sup> day of August, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge